

U.S. Department of Commerce:
**Dual Use Licensing Policy Issues and
Regulatory Update**

Presented by:

Steve Clagett

Director, Nuclear and Missile Technology Division

Alex Lopes

Senior Engineer, Nuclear and Missile Technology Division

**Office of Non-proliferation and Treaty Compliance
Bureau of Industry and Security**

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Dual Use Licensing

- **Policy Issues**
 - **North Korea Nuclear Revelations**
 - **India Initiatives**
- **Regulatory Changes**
 - **ECCN 2A291.e: Radiation Detectors for “Special Nuclear Material”**
- **Helpful Hints**



North Korea Background

- **Oct 93- Agreed framework negotiated**
 - \$5B package including two LWRs and 500 ktons of heavy fuel oil annually to freeze nuclear activities
- **Oct 02- North Korea admits to secret nuclear arms program**
- **Dec 02- North Korea announces intention to reactivate nuclear facilities**
- **Jan 03- IAEA personnel directed to leave**



North Korea Export Control Issues

- **Existing Policy: Eligible for “No License Required” export of EAR99 with EPCI controls**
- **Decisions for existing and future export licenses for KEDO/Agreed Framework**
- **Nuclear Suppliers Group “Watch List” of non-controlled items**
- **Do unilateral xx999 regulatory controls need to be enhanced?**



INDIA: Dual Use Export Control Policies and Procedures



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Recent Developments with India

- **November 2002: U.S.-Indian High Technology Cooperation Group created to identify ways to facilitate high technology trade, including informing U.S. exporters of export policy for India.**
- **February 2003: U.S. and India signed Statement of Principles on bilateral high technology trade.**



General Licensing Policy for India

- **EAR99 items may be shipped to most end users in India without an export license.**
- **Many commodities controlled for National Security (NS) concerns may be exported using license exception GBS.**
- **Computer, technology and software items are also eligible for license exceptions.**
- **Items controlled for Nuclear, Missile, or Chem/Bio reasons are reviewed on a case-by-case basis.**



The Entity List for India

- In 2001, over 100 Indian end users were removed from the Entity List
- “Presumption of approval” for EAR99 items intended for export to remaining entities; case-by-case review for all other items
- Many license applications for commodities that do not require a license for an unlisted end user continue to be processed



Recent Regulatory Change

- Radiation detectors and monitors specially designed for detecting or measuring “special nuclear material” or for nuclear reactors was transferred from the USML to the CCL in October 2002
- New ECCN 2A292.e is applicable to systems such as Nuclear Material Identification System (NMIS) and Multiple Aspect Measuring System (MAMS)
- ECCN 2D290 and 2E290 is associated software and technology
- Specially designed radiation detectors are different from commercially available detectors classified under ECCN 1A999



Recent Interagency Coordination Change

- **DOE now reviews export license applications for commodities controlled for missile technology reasons**



Helpful Hints

- If export license application is part of formal government to government or lab to lab agreement, include that information in the application
- For applications with extensive list of commodities, consider submitting separate licenses for non-sensitive (i.e. EAR 99) and sensitive (i.e. NP controlled) items
- Include POC with knowledge of commodity and its end use



NMT Contact Information

- **Steve Clagett**
 - (202) 482-1641
 - sclagett@bis.doc.gov
- **Alex Lopes**
 - (202) 482-4875
 - alopes@bis.doc.gov
- **Fax: (202) 482-4145**

